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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/937,587	09/27/2001	Sundar J. Rajan	54676US002	2684
32692	7590	09/22/2010	EXAMINER	
3M INNOVATIVE PROPERTIES COMPANY PO BOX 33427 ST. PAUL, MN 55133-3427				CHEVALIER, ALICIA ANN
ART UNIT		PAPER NUMBER		
1783				
NOTIFICATION DATE		DELIVERY MODE		
09/22/2010		ELECTRONIC		

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* SUNDAR J. RAJAN, ROBERTA E. HARELSTAD, and  
JOEY L. REULE

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Appeal 2009-012457  
Application 09/937,587  
Technology Center 1700

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Before CHARLES F. WARREN, CATHERINE Q. TIMM, and  
STEPHEN G. WALSH, *Administrative Patent Judges*.

TIMM, *Administrative Patent Judge*.

DECISION ON APPEAL<sup>1</sup>

I. STATEMENT OF CASE

Appellants appeal under 35 U.S.C. § 134 from the Examiner's decision to reject claims 1-4, 7-19, and 37 under 35 U.S.C. § 103(a) as

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<sup>1</sup> The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the "MAIL DATE" (paper delivery mode) or the "NOTIFICATION DATE" (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

unpatentable over Orensteen (US 5,508,105; Apr. 16, 1996) in view of Lu (US 5,670,096; Sep. 23, 1997). We have jurisdiction under 35 U.S.C. § 6(b).

We REVERSE.

Appellants' invention relates to signage articles having adhesion-enhancing surfaces for marking materials (Spec. 3: 11-12). Claim 1 is illustrative:

1. A signage article comprising:

a substrate comprising a noncellulosic organic polymeric surface,

a surface exposed to the outdoors comprising a radiation cured coating crosslinked by exposure radiation selected from the group consisting of ultraviolet radiation, visible radiation, electron beam radiation, and combinations thereof disposed on the noncellulosic organic polymeric surface; and

a marking material disposed on the radiation cured coating, wherein the marking material is not substantially removed from the signage article upon wiping the marking material with gasoline for five cycles.

Appellants present no separate arguments for any of the rejected claims. Accordingly, we select representative independent claim 1 to decide the issue on appeal.

## II. DISPOSITIVE ISSUE

The dispositive issue arising from the contentions of Appellants and the Examiner is: does the evidence support the Appellants' view that the Examiner erred in concluding that claim 1 would have been obvious to one of ordinary skill in the art based on the teachings of Orensteen and Lu? We answer this question in the affirmative.

### III. DISCUSSION

Appellants contend that the combined teachings of Orensteen and Lu cannot inherently possess the claimed gasoline resistance because Lu does not teach an enabling description of a “marking material disposed on the radiation cured coating” (Br. 6).

In the rejection and in the Response to Arguments, the Examiner asserts that Lu teaches that spacing layer 22 is a radiation cured coating having ink printed thereon, citing Figure 2 and the description of the materials taught by Lu (Ans. 4 and 6).

In Figure 2, Lu teaches a base sheet 21 including an array of hemispherical microlenses 24 and a transparent spacing layer 22 (Lu, col. 5, ll. 23-25). We do not disagree with the Examiner that Lu teaches a transparent ink 26 disposed on a surface of the transparent spacing layer 22 (Lu, col. 5, ll. 38-41). However, we disagree with the Examiner’s finding that the spacing layer 22 is formed from a radiation cured composition.

Lu teaches that a base sheet 21 can be made by using a “forming master and a substrate film or base film of proper thickness to act as a spacing layer. Illustrative examples of useful base films include flexible films of polyester, polyvinyl chloride, and polymethyl methacrylate” (Lu, col. 8, ll. 21-28). Lu teaches that an ultraviolet-curable composition is applied to the forming master “such that the composition completely fills the hemi-spheroidal concavities” and that the “substrate film which becomes at least part of the spacing layer [22] may be used to substantially define the desired overall tensile and film-like integrity of the article” (Lu, col. 8, ll. 46-54). In other words, the teachings of Lu suggest that the hemi-spheroidal microlenses 24 of the base sheet 21 are made from the disclosed radiation

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cured composition relied upon by the Examiner, and not the spacing layer 22 having the ink printed thereon. The spacing layer 22 comprises only a film of polyester, polyvinyl chloride, or polymethyl methacrylate.

This analysis is supported by the Examples in Lu which all teach printing on a polycarbonate or polyvinyl chloride film, as argued by Appellants (Br. 6; *see e.g.*, Lu, col. 10, ll. 50-53 and col. 12, ll. 30-32).

Thus, the factual basis for the Examiner's conclusion of obviousness, i.e., that Lu teaches depositing ink onto a radiation cured composition, is not supported by the evidence.

#### IV. CONCLUSION

On the record before us and for the reasons presented above, we cannot sustain the rejection maintained by the Examiner.

#### V. DECISION

The decision of the Examiner is reversed.

REVERSED

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